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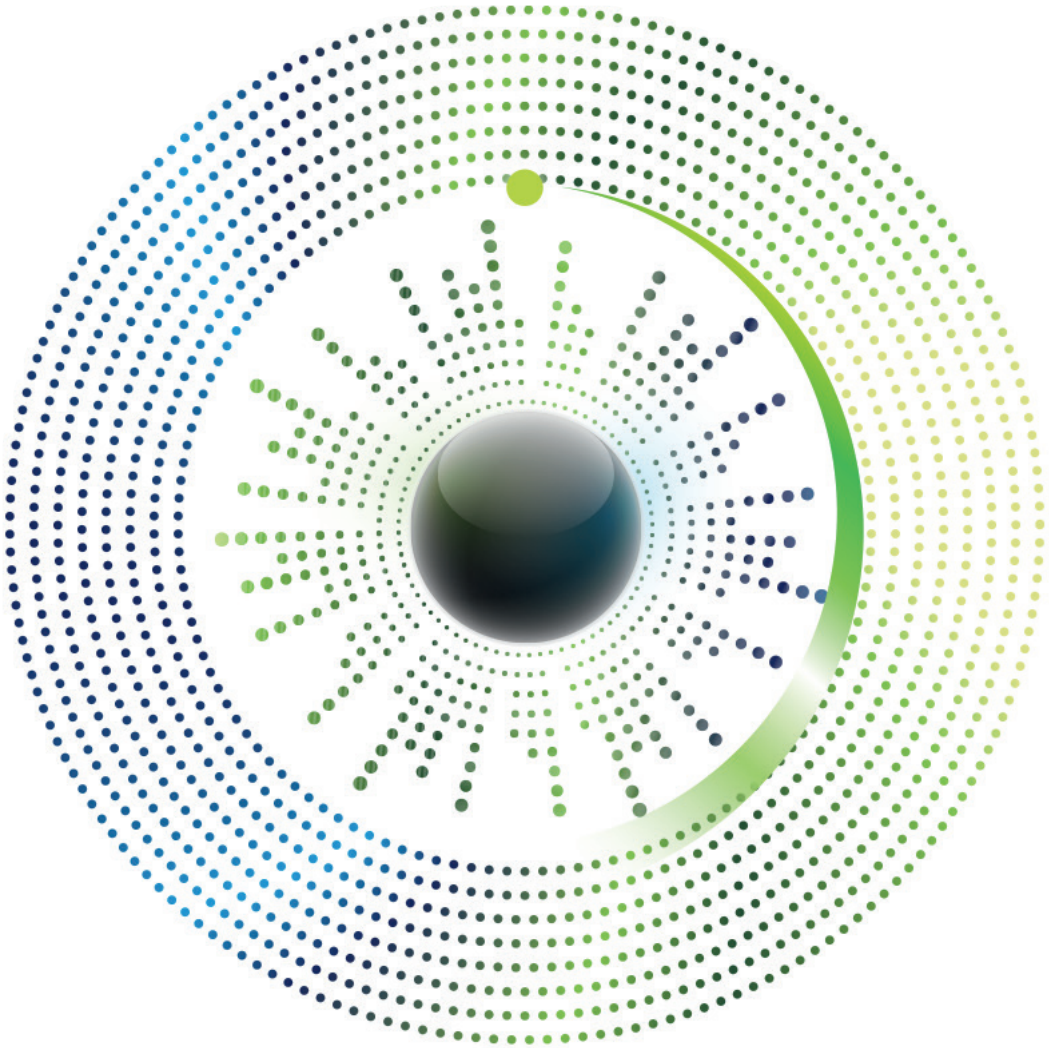

VAT's new?

Current developments in Germany and the EU in the field of VAT

Highlights

Time of input tax deduction

In its judgment of 11 February 2026, the General Court ruled that input tax may be deducted in the period where the substantive conditions are met, even if the invoice is received in the following period subject that the taxable person receives the invoice before submitting the VAT return. On 4 March 2026, the First Advocate General lodged an application initiating review proceedings before the CJEU.

General Court, judgment of 11 February 2026 – T689/24, Dyrektor Krajowej Informacji Skarbowej
CJEU: C-167/26 RX

Links for further information
Deloitte Tax News – Teil 1
Deloitte Tax-News: Steuern – Indirekte Steuern/Zoll – Teil 2
VAT Insights | Aktuelles aus der Umsatzsteuer | Deloitte Deutschland | Tax & Legal | Webcast
Podcast "Deloitte meets MwStR" of 27 March 2026, episode #33

Late submission of invoices

Article 168(c), Article 178(c), and Articles 179, 180 and 182 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2010/45/EU of 13 July 2010, read in the light of the principles of fiscal neutrality, proportionality and effectiveness, must be interpreted as precluding national legislation and an administrative practice under which the deduction of value added tax relating to intra-Community acquisitions of goods is refused on the ground that the taxable person exercised his or her right of deduction in the tax period during which he or she actually received the invoices necessary for the exercise of that right, which was subsequent to the period during which those acquisitions had been made, even though that taxable person exercised that right in good faith and within the limitation period.

CJEU, judgment of 12 March 2026 – C521/24, Aptiv Services Hungary

Link for further information
Podcast of 27 March 2026, episode #33

Mechanism for separating taxable transactions

Article 98(1) and (2) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, read in conjunction with point (12) of Annex III to that directive, must be interpreted as not precluding national legislation which excludes from the scope of the reduced rate of value added tax applicable to short-term accommodation services provided in hotels and similar establishments supplies which are not directly used for that accommodation, such as the making available of parking spaces, a gym and wellness facilities, as well as access to the hotel's wi-fi network and the provision of breakfast, even though they could be regarded as being ancillary to that accommodation due to the fact that the remuneration for them is covered by the flat-rate overall price paid for all the services supplied in the context of that accommodation, provided that those rules make provision for the reduced rate to be applied to concrete and specific aspects of the categories of accommodation services referred to in point (12) of Annex III to that directive and that the principle of fiscal neutrality is complied with.

CJEU, judgment of 5 March 2026 – C409/24 to C411/24, J-GmbH, D, D GmbH & Co. KG

Link for further information
Event: VAT Breakfast | Aktuelle Praxisfragen aus der Umsatzsteuer | Deloitte Deutschland

Tax on Air

New box 500 in VAT returns, emails during tax audits, preliminary and annual VAT return – two separate acts

Link for further information

Podcast of 17 March 2026, episode #32

News

Taxable supplies by a transfer company

Top-up payments made by an employer to the operator of a transfer company as part of a corporate restructuring constitute consideration for a taxable supply. The transfer of employees into a temporary transfer employment relationship involves a supply provided by the transfer company to the former employer. It enables the employer to reduce its workforce without layoffs for operational reasons and provides him with economic advantages. The top-up payments are part of the tax base. The service provided by the transfer company primarily serves the employer's interests and is not closely linked to social welfare or social security. Therefore, the supply is not exempt from VAT under Article 132(1)(g) of the EU VAT Directive. The transfer of employment relationships also does not constitute an active employment promotion measure so that the VAT exemption rule under sec. 4 no. 15b GVATA does not apply.

Federal Fiscal Court, judgment of 20 November 2025 – V R 10/23

Services provided by a non-profit sports club

The administrative practice regarding the treatment of services provided to club members is inconsistent with the principles established by the Federal Fiscal Court, which are shaped by EU VAT law. Accordingly, sports clubs provide taxable services to their members, even if these take place in the non-material sphere. Membership fees can therefore generally constitute consideration, regardless of whether the members use the services. The contrary view of the German Tax Authorities (Federal Ministry of Finance, letter of 4 February 2019 – III C 3 - S7180/17/10001, Federal Tax Gazette I 2019, 115) is not in line with EU VAT rules.

Federal Fiscal Court, judgment of 13 November 2025 – V R 4/23

Operation of slot machines and amusement arcades

The different treatment of terrestrial slot machine gaming in amusement arcades (taxable) and virtual slot machine gaming (VAT-exempt) does not violate the principle of neutrality. The taxable person cannot directly invoke the VAT exemption under Art. 135(1)(i) of the VAT Directive. The relationship required for a taxable exchange of supplies exists between the operator and the player. The operator grants the player a chance to win and receives the stake as consideration.

Münster Fiscal Court, decision of 17 December 2025 – 5 V 608/25 U, legally binding

Tax evasion through preliminary and annual VAT returns – no single procedural offense

Incorrect, incomplete, or omitted preliminary VAT returns and the incorrect, incomplete, or omitted annual VAT return covering the same period involve distinct procedural offenses.

Federal Court of Justice, decision of 10 December 2025 – 1 StR 387/25

Link for further information

Podcast of 17 March 2026, episode #32

Services under the Distance Learning Protection Act

In a dispute over claims for compensation and reimbursement arising from online coaching contracts, the Federal Court of Justice ruled that business coaching services fall under the Distance Learning Protection Act if they are primarily focused on imparting knowledge and skills and meet the additional requirements under sec. 1(1) of the German Distance Learning Protection Act. The classification must be made on a case-by-case basis considering the specific range of services. It depends on whether the services are primarily intended to impart knowledge and skills or to provide personal counseling.

Federal Court of Justice, judgment of 15 January 2026 – III ZR 80/25

Provision of vehicles to employees as barter-like transaction

In its judgment of 30 June 2022 – V R 25/21, the Federal Fiscal Court held that the direct link between the provision of a vehicle to employees for private use and the (partial) work performance exists where the provision of the vehicle is individually agreed upon in the employment contract and is actually utilized. Nothing to the contrary can be inferred from the CJEU principles, as the CJEU answered the question referred by the Saarland Fiscal Court, which did not address the barter-like transaction (CJEU, judgment of 20 January 2021 – C-288/19, Finanzamt Saarbrücken). Consequently, the Federal Ministry of Finance clarified that the current administrative practice regarding the provision of company cars to employees will generally remain in place. It updated the German VAT Application Decree accordingly.

Federal Ministry of Finance, letter of 3 March 2026 – III C 3 - S 7117-e/00003/005/058

Referee Draft of the Customs and Financial Integrity Act

The Federal Ministry of Finance published the referee draft of the Act for greater fairness through the strengthening of customs administration and the fight against financial crime (Customs and Financial Integrity Act – Zollfinanzgerechtigkeitsgesetz – ZFG). It is aimed at initiating the modernization of the customs administration's organizational structure and operational processes. Moreover, the customs administration's powers in combating international money laundering will be reinforced, and further measures to detect and combat organized crime will be implemented.

Federal Ministry of Finance, press release of 3 March 2026

Rights and obligations during tax audits

In a recent letter, the Federal Ministry of Finance corrects the reference to the section regarding the encryption requirement included in the letter of 17 February 2025 (IV D 3 – S 0403/00009/001/009, Federal Tax Gazette I 2025, 569). Instead of sec. 87a(1)(3) of the German Fiscal Code, sec. 87a(1)(4) second half-sentence of the German Fiscal Code applies. Accordingly, a waiver of encryption is only permissible with the written consent of all affected parties.

Federal Ministry of Finance, letter of 23 February 2026 – IV D 2 - S 0403/00009/001/031

VAT-exempt transactions relating to maritime and aviation traffic

The Lower Saxony State Tax Office commented on the VAT exemption for transactions relating to maritime and aviation traffic, considering Federal Fiscal Court principles (judgment of 19 December 2024 – V R 12/23). Accordingly, control and monitoring measures preclude the VAT exemption rule. In addition, upstream transactions are only VAT-exempt if, at the time of the supplies, their final use for an identifiable, already existing seagoing vessel is established. It also exemplifies typical scenarios, including work supplies, supply chains, and mixed use.

Lower Saxony State Tax Office, order of 6 January 2026 – S7155-St 175-240/2026

Technical fault in the electronic transmission of the application for a VAT refund

Article 170 and Article 171(1) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive 2008/8/EC of 12 February 2008, read in conjunction with the second sentence of Article 15(1), Article 20(1) and Article 23(2) of Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State, and with the principles of neutrality of value added tax (VAT), proportionality and good administration, must be interpreted as precluding national legislation, as interpreted by a final judicial decision, according to which a taxable person established in a Member State other than the Member State of VAT refund is deprived of both the right to a VAT refund and the right of access to the courts so as to challenge a failure to act on the part of the tax authorities of the Member State of refund, to which that taxable person's VAT refund application has been made, on the ground that that application cannot be considered submitted owing to a technical fault in its electronic transmission.

CJEU, judgment of 12 March 2026 – C527/24, Harry et Associés

Loyalty programme

The concept of 'voucher' defined in point 1 of Article 30a of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive (EU) 2016/1065 of 27 June 2016, must be interpreted as not including the issue of points awarded by a supplier to its customers in the context of a loyalty programme under which those points are determined on the basis of the amount spent on the purchase of goods and are used by those customers to obtain additional goods offered for sale by that supplier when a new purchase is made from that supplier's range, where there is no obligation for the supplier to accept those points as consideration or part consideration for a supply of goods.

CJEU, judgment of 5 March 2026 – C436/24, Lyko Operations

Link for further information

Coming soon: Deloitte Tax-News: Steuern – Indirekte Steuern/Zoll

Exchange of units of virtual money for traditional currencies

Article 135(1)(e) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended by Council Directive (EU) 2016/1065 of 27 June 2016, must be interpreted as meaning that transactions consisting in the exchange, for payment purposes, of real currency for units of virtual money that can be used only in an online video game are not covered by the value added tax exemption laid down in that provision.

Article 30a of Directive 2006/112, as amended by Council Directive 2016/1065, must be interpreted as meaning that units of virtual money that can be used only in an online video game, where they give access to certain functionalities within that game, do not fall within the scope of the concept of a 'voucher', in particular that of a 'multi-purpose voucher', within the meaning of that provision, with the result that valued added tax must be levied on those transactions in accordance with the general rule laid down in Article 73 of that directive.

CJEU, judgment of 5 March 2026 – C-472/24, Žaidimų valiuta

Acquisition of tickets for events and services

The second paragraph of Article 176 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as not precluding national legislation which enters into force on the date of the concerned Member State's accession to the European Union, and which introduces an exclusion from the right to deduct input value added tax in respect of expenditure for the acquisition of goods and services, such as tickets to attend sporting events, intended to show appreciation for clients, customers, salaried employees or third parties.

CJEU, judgment of 12 March 2026 – C-515/24, Randstad España

Intermunicipal cooperation

Articles 2, 9 and 13 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax must be interpreted as meaning that

- a legal person governed by public law organised as a commissioning association, whose activity consists in supplying telematics services and making related supplies of computer equipment to its members in the context of a conferral of management, must be regarded as liable to value added tax (VAT), there being no need, in that regard, to distinguish between its members according to their status for VAT purposes, provided that those services are supplied for consideration and that the association carries out, independently, an economic activity;
- a national tax practice leading to those supplies of services being analysed as self-supplies of services performed by the members of the commissioning association is not such as to call into question that association's liability to VAT.

General Court, judgment of 25 February 2026 – T575/24, Digipolis

Intra-Community acquisitions

Articles 40, 41 and 203 of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, and the principles of neutrality of value added tax (VAT) and proportionality, must be interpreted as not precluding the application of national legislation which applies VAT to an intra-Community acquisition in the Member State in which dispatch or transport of the goods began, on the ground that the person acquiring the goods made that acquisition under the VAT identification number issued by that Member State, where such an acquisition results from an intra-Community supply exempt from VAT for which there is a tax liability in that Member State pursuant to the rule set out in Article 203 of that directive, as a result of VAT having been incorrectly invoiced for that supply.

General Court, judgment of 25 February 2026 – T638/24, Finanzamt Österreich

EESC opinion on EPPO and OLAF access to VAT information at the EU level

The European Economic and Social Committee (EESC) commented on the Proposal for a Council Regulation amending Regulation (EU) No 904/2010 as regards the access of the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF) to VAT information at the EU level. Accordingly, the EESC supports the Commission's efforts to promote a more comprehensive strategy to combat VAT fraud. It stresses the need to enable the competent authorities to swiftly collect, use, and cross-check VAT-related data across multiple Member States, thereby reducing delays in the competent tax authorities' response to fraudulent activities. At the same time, the EESC emphasizes that data processing and access must comply with applicable legislation and the principle of data minimization. The EESC notes that no impact assessment was carried out. Further, it underlines that the proposal does not introduce new reporting or compliance obligations for economic operators. The EESC also acknowledges that the proposal will increase the collection of financial resources that contribute to the EU's own resources.

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Proposal for a Council Regulation on EPPO and OLAF access to VAT information at the EU level

The Working Party on Tax Questions (Indirect Taxation – VAT) published its provisional agenda for its meeting on 4 March 2026. During the meeting, the proposal for a Council Regulation on access of EPPO and OLAF to VAT information at the EU level will be discussed.

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Contact

Dr. Ulrich Grünwald
Partner
Indirect Tax
Tel: +49 30 25468 258
ugruenwald@deloitte.de

Dr. Diana-Catharina Kurtz
Senior Manager
Indirect Tax
Tel: +49 89 29036 8025
dkurtz@deloitte.de

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